

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of SBC Communications Inc. (SBC) and AT&T Corp. (AT&T) for Authorization to Transfer of AT&T Communications of California (U-5002), TCG Los Angeles, Inc. (U-5454) to SBC, Which Will Occur Indirectly as a Result of AT&T's Merger With a Wholly-Owned Subsidiary of SBC, Tau Merger Sub Corporation.

Application 05-02-027
(Filed February 28, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
PROVIDING FOR COMMENTS IN RESPONSE TO XO**

In response to the TURN Motion to Compel Discovery, XO Communications Services, Inc. (XO) filed comments on May 10, 2005. In its comments, XO argued that Joint Applicants should be required to consent to TURN's providing XO with an unredacted copy of its Motion.

XO was provided only with the "public" version of the TURN Motion. XO requested that Joint Applicants authorize TURN to provide XO with an unredacted or "proprietary" version of TURN's motion. Because Applicants did not respond to XO's request, XO inferred that Applicants opposed XO's being provided a "proprietary" version.

As a practical matter, a ruling has already been issued on the TURN Motion. To that extent, it may be considered moot as to whether XO should be granted a "proprietary" version of the Motion, at least in the context of the ruling

on TURN's motion. XO's request, however, raises broader issues of due process and the general ground rules under which proceeding is to be conducted.

XO argues that because it has executed the Nondisclosure Agreement, there is no valid reason for Applicants to prevent XO from having access to an unredacted version of the Motion. XO argues that this proceeding should not be conducted on a "star chamber" basis where key pieces of evidence are kept secret and as a result, parties are not allowed to confront opposing parties through full cross-examination of their witnesses.

Also, to help expedite the proceeding and limit potential duplicative evidentiary showings, XO proposes that the Commission should rule that parties that have signed the Nondisclosure Agreements may discuss among themselves any information claimed by the Joint Applicants to be confidential, including "no copies" documents.

Discussion

Because the proposals of XO were raised for the first time in response to the Motion of TURN, concurrently with Applicants, there was no opportunity for Applicants to be heard concerning these proposals of XO. Accordingly, before issuing a ruling on XO's proposals, the Applicants, and any other party that so wishes, is hereby authorized to file comments in response to XO's proposals, as provided below.

IT IS RULED that:

1. Parties are hereby permitted to file comments in response to the proposals of XO made in its comments on TURN's Motion to Compel. The issues raised by XO include the question of parties' rights to obtain access to the proprietary version of the TURN Motion and similar sorts of confidential materials where the party signs the Nondisclosure Agreement, and parties' ability to discuss among

themselves, on a confidential basis, any information claimed by Applicants to be confidential, including “no copies” documents.

2. One round of concurrent comments on the XO proposals shall be due on June 3, 2005.

Dated May 26, 2006, at San Francisco, California.

/s/ Thomas R. Pulsifer

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Administrative Law Judge's Ruling Providing for Comments in Response to XO by using the following service:

☒ E-Mail Service: sending the entire document as an attachment to all known parties of record who have provided electronic mail addresses.

☒ U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Dated May 6, 2005, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.